

**ASSEMBLY BILL**

**No. 47**

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**Introduced by Assembly Member Gatto**

December 19, 2012

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An act to add Section 653.01 to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 47, as introduced, Gatto. Emergency telephone system: abuse.

Under existing law, any person who knowingly allows the use of, or who uses, the 911 telephone system for any reason other than because of an emergency is guilty of an infraction. Any person who uses the 911 telephone system with the intent to annoy or harass another person is guilty of a misdemeanor, punishable by a fine not exceeding \$1,000, by imprisonment in a county jail for not more than 6 months, or by both that fine and imprisonment.

This bill would provide that any person who calls the 911 telephone system to dispatch a police response to a residence or place of business where there is no emergency, with the intent to annoy or harass another person, and police are dispatched as a result of the call, is guilty of a misdemeanor punishable by a fine not exceeding \$10,000, by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. Under the bill, the person responsible for that call is guilty of a felony punishable by a fine not exceeding \$10,000, by imprisonment in a county jail for not more than 2 years, or by both that fine and imprisonment, if any person sustained bodily injury as a result of conduct arising out of and in the course of the police dispatch. Under the bill, the person responsible for that call is guilty of involuntary manslaughter, punishable as specified, if any person sustained death as a result of conduct arising out of and in the course of the police dispatch.

This bill would require, upon conviction, that the person shall also be liable for all reasonable costs incurred by any unnecessary emergency response. This bill would exempt from its provisions telephone calls made in good faith. By increasing the penalty for an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 653.01 is added to the Penal Code, to  
2 read:

3     653.01. (a) Any person who calls the 911 telephone system  
4 to dispatch a police response to a residence or place of business  
5 where there is no emergency, with the intent to annoy or harass  
6 another person and if police are dispatched as a result of the  
7 telephone call, is guilty of a misdemeanor punishable by a fine of  
8 not more than ten thousand dollars (\$10,000), by imprisonment in  
9 a county jail for not more than one year, or by both that fine and  
10 imprisonment.

11     (b) Any person who calls the 911 telephone system to dispatch  
12 a police response to a residence or place of business where there  
13 is no emergency, with the intent to annoy or harass another person  
14 and if police are dispatched and any person sustains bodily injury  
15 as a result of conduct arising out of and in the course of the police  
16 being dispatched to the residence or place of business, is guilty of  
17 a felony punishable by a fine of not more than ten thousand dollars  
18 (\$10,000), by imprisonment in a county jail for not more than two  
19 years, or by both that fine and imprisonment.

20     (c) Any person who calls the 911 telephone system to dispatch  
21 a police response to a residence or place of business where there  
22 is no emergency, with the intent to annoy or harass another person  
23 and if police are dispatched and any person sustained death as a  
24 result of conduct arising out of and in the course of the police being  
25 dispatched to the residence or place of business, is guilty of

1 involuntary manslaughter punishable under subdivision (b) of  
2 Section 193.

3 (d) For purposes of this section, “emergency” means any  
4 condition in which emergency services will result in the saving of  
5 a life, a reduction in the destruction of property, quicker  
6 apprehension of criminals, or assistance with potentially  
7 life-threatening medical problems, a fire, a need for rescue, an  
8 imminent potential crime, or a similar situation in which immediate  
9 assistance is required.

10 (e) Upon conviction of this section, a person shall also be liable  
11 for all reasonable costs, including property damage, incurred by  
12 an unnecessary police response.

13 (f) This section shall not apply to telephone calls made in good  
14 faith.

15 SEC. 2. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.